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**JEFFREY M. NELSON**  
Chief Legal Officer

July 9, 2019

**VIA ELECTRONIC FILING**

Jocelyn G. Boyd, Esquire  
Chief Clerk & Administrator  
Public Service Commission of South Carolina  
101 Executive Center Drive, Suite 100  
Columbia, South Carolina 29210

Re: **Docket No. 2018-321-E and 2018-322-E**

Dear Ms. Boyd:

ORS requests that the Commission require both notice and a formal administrative hearing prior to ruling on Duke Energy Carolinas ("DEC") and Duke Energy Progress ("DEP") (collectively, "Companies") requests in the above referenced dockets because the companies are seeking approval for a return on the proposed expenditures. ORS does not object to the Companies request for expedited treatment of these dockets.

ORS reiterates its position previously stated to the Commission in these dockets on May 20, 2019 that an accounting order is an inappropriate cost recovery mechanism for these programs. ORS believes that the ET Pilot expenses would be most appropriately recovered through a DER program.

Notice and hearing are required because the Companies are asking for a binding Order of the Commission affecting customer rates. In asking the Commission to approve upfront the Companies weighted average cost of capital on its prudently incurred costs, the Companies ask the Commission to approve an undetermined amount which will necessarily be included in the allowable costs to be passed on to customers in the Companies' next general rate cases. The Companies request for an affirmative ruling from the Commission to permit the Companies to defer the weighted average cost of capital expense mandates that customers be provided with a

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notice and opportunity to be heard under both the South Carolina Administrative Procedures Act<sup>1</sup> as well as the due process and takings clauses of the South Carolina Constitution.

ORS also believes that the lack of a cost-benefit analysis by the Companies to establish any financial benefits relative to the costs incurred by the Companies ratepayers dictates that notice to those customers and an opportunity for them to be heard prior to the Commission approving these ET Pilots is essential. The Company, in its Joint Reply Comments, defers to the Commission to determine if the costs associated with the ET Pilots outweigh the benefits to customers.<sup>2</sup> In order to make an informed decision, the Commission should allow for customer participation through notice and a formal administrative hearing. Included in the Companies stated goals for these ET Pilots are certain societal goals such as “economic benefits from retaining fuel cost savings in the state, improving state energy trade balances, and deploying cutting edge vehicle technology.” While these are all worthy goals, ORS questions the propriety of DEC and DEP being permitted to charge their ratepayers for funds to operate such programs when those customers have not had to opportunity to comment on or object to them. ORS further believes that the speculative dollar figures of net benefits provided in the Companies study are based solely on the Companies assumptions and are therefore simply unsupportable estimates.

The Companies request the Commission depart from its practice of granting deferrals. Historically, parties may reserve their rights to challenge the prudence of all deferred costs, as well as whether any return is granted in the next rate case. In addition, the Companies did not request that the Commission affirm recovery of a predetermined return on its deferred costs in its initial Application but has done so in its Amended Application which was filed with the Commission in April. If the Commission is inclined to allow a deferral, ORS asks that the Commission permit parties to address the prudence of any deferred costs and the return on those costs in the next general rate case. If permitted to do so, ORS would withdraw its request for notice and a hearing.

Finally, Administrative Docket 2019- 233-A was recently opened to address the use and treatment of deferrals. It seems logical to abstain from approving any new deferrals until the

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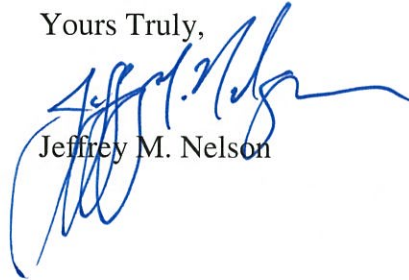
<sup>1</sup> Under S.C. Code Ann. §1-23-310(3) a “‘Contested case’ means a proceeding including, but not restricted to, ratemaking, price fixing, and licensing in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing.” Further, §1-23-320(a) provides that “in a contested case, all parties must be afforded an opportunity for hearing after notice of not less than thirty days....”

<sup>2</sup> Joint Reply Comments of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC p.9

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Commission has had the opportunity to review and develop its position regarding deferrals in this docket, particularly as the Companies have an applicable recovery mechanism through DER.

Yours Truly,

A handwritten signature in blue ink, appearing to read 'Jeffrey M. Nelson', is written over the typed name. The signature is stylized with a large, sweeping initial 'J' and a long horizontal stroke extending to the right.

Jeffrey M. Nelson

cc: Joseph Melchers, Esquire (via E-mail)  
All Parties of Record (via E-mail)